IN THE HIGH COURT OF UTTARAKHAND AT NAINITAL.

Writ Petition No. 833 (S/S) 2005

1. Raj Kumar Sharma S/o sri Ghasitu Ram.
   Mistri in Soil Division, Irrigation Research Institute,
   Roorkee, District Haridwar.
2. Ram Pal Singh Beniwal S/o Sri Attar Singh,
   Mistri in Admn. Division, Irrigation Research Institute,
   Roorkee, District Haridwar.
3. Kamlesh Dutt Sharma S/o Sri Bhadra Dutt Sharma,
   Mistri in Soil Division-II, Irrigation Research Institute,
   Roorkee, District Haridwar.
4. Jagdish Prasad S/o Sri Barumal,
   Mistri in Admn. Division, Irrigation Research Institute,
   Roorkee, District Haridwar.
5. Om Prakash S/o Sri Babu Ram,
   Mistri in Material Tanining Division,
   Irrigation Research Institute,
   Roorkee, District Haridwar.
6. Dharam Singh S/o Sri Chiman Singh
   Mistri in Hydraulic Division-IV, Irrigation Research Institute,
   Roorkee, District Haridwar.
7. Aslam Hussain S/o Sri Najir Hussain,
   Mistri in Admn. Division, irrigation Research Institute,
   Roorkee, District Haridwar.
8. Suresh Chandra S/o Sri Buddhu Singh,
   Mistri in Hydraulic Division, Irrigation Research Institute,
   Roorkee, District Haridwar.
9. Chetan Prakash S/o Sri Tilak Chandra,
   Mistri In Basic Research Div., Irrigation Research Institute,
   Roorkee, District Haridwar.
10. Surajmal S/o Sri Phool Singh,
    Mistri in Groundwater Division, Irrigation Research Institute,
    Roorkee, District Haridwar.
11. Mahendra Singh S/o Sri Bakhtawar Singh,
    Mistri in Admn. Division, Irrigation Research Institute,
    Roorkee, District Haridwar.
12. Satya Prakash S/o Sri Dukhi Ram,
    Mistri in Admn. Division, Irrigation Research Institute,
    Roorkee, District Haridwar.
13. Ram Gopal S/o Sri Laxmi Narain,
    Mistri in Admn. Division, Irrigation Research Institute,
    Roorkee, District Haridwar.

14. Ashok Kumar S/o Sri Om Prakash,
Mistri in Soil Division, Irrigation Research Institute,
Roorkee, District Haridwar.
15. Deepak Verma S/o Sri Pitambar Singh,
Mistri in Admn. Division, Irrigation Research Institute,
Roorkee, District Haridwar.
16. Ram Swaroop S/o Sri Malkhan Singh,
Mistri in Admn. Division, Irrigation Research Institute,
Roorkee, District Haridwar.
17. Sharafat Hussain S/o Sri Jahoor Ahmad,
Mistri in Admn. Division, Irrigation Research Institute,
Roorkee, District Haridwar.
18. Nathi Singh S/o Sri Phulel Singh,
Mistri in Material Testing Div., Irrigation Research Institute,
Roorkee, District Haridwar.
19. Satish Kumar S/o Sri Hari Singh,
Mistri in Admn. Division, Irrigation Research Institute,
Roorkee, District Haridwar.
20. Vinod Kumar S/o Sri Rahtoo Lal,
Mistri in Groundwater Divi., Irrigation Research Institute,
Roorkee, District Haridwar.
21. Satya Pal Singh S/o Sri Sangat Singh,
Mistri in Admn. Division, Irrigation Research Institute,
Roorkee, District Haridwar.
22. Akhilesh Kumar S/o Sri Om Prakash,
Mistri in Admn. Division, Irrigation Research Institute,
Roorkee, District Haridwar.
23. Hukam Chand S/o Sri Nathu,
Mistri in Admn. Division, Irrigation Research Institute,
Roorkee, District Haridwar.
24. Yogesh Kumar S/o Sri Bhagwat Swaroop,
Mistri in Hydraulic Div. III, Irrigation Research Institute,
Roorkee, District Haridwar. .....Petitioners.

Versus

1. State of Uttarakhand through Secretary
Irrigation Department,
Govt. of Uttarakhand, Dehradun,
2. Chief Engineer (Head of the Department),
Irrigation Department Uttarakhand,
Yamuna Colony, Dehradun,
3. Chief Engineer (Design) and Director,
Irrigation Research Institution, Roorkee,
District Haridwar. ..... Respondents.

Sri Manoj Tewari, learned counsel for the petitioners,
Sri N.P. Sah, learned Standing Counsel for State of Uttarakhand/respondents.

Hon'ble M.M. Ghildiyal, J.

Heard Sri Manoj Tewari, learned counsel for the petitioners and Sri N.P. Sah, learned Standing Counsel for the State of Uttarakhand/respondents.

By means of this writ petition, the petitioners have prayed for the following reliefs:-

a. To issue a writ, order or direction in the nature of mandamus commanding the respondents to forthwith remove the disparity in the pay scales of Mistries serving in Irrigation Research Institute vis-à-vis the Mistries serving in Tubewells,

b. To issue a writ, order or direction in the nature of mandamus commanding the respondents to forthwith grant revised scale to the petitioners i.e. 4000-6000 and pay all consequential benefits including arrears of salary to the petitioners,

c. To issue any other writ, order or direction which this Hon'ble Court may deem fit and proper in the circumstances of the case,

d. Award the cost of the writ petition in favour of the petitioners.

Stand of the petitioners is that they were appointed on the posts of Mistries by the competent authority in Irrigation Research Institute, Roorkee on 24.08.1967 and on subsequent dates. One Govt. Order dated 14.08.1992 was issued, which provides that if the eligibility conditions of the post of Tubewell Mistries and Tubewell Operators are the same, then they shall be placed in the same cadre. The respondent no. 1 vide Govt. order dated 25.05.2004 revised the pay-scale of Mistries from

Rs. 3050-4500 to 4000-6000. Since, this Govt. Order is limited in its application to Tubewell Mistries only, as such, other Mistries serving in the Department have suffered disparity in pay-scale. On 10th October 2004, the respondent no. 2 recommended to grant revised pay-scale of Rs. 4000-6000 to the Mistries of Irrigation Research Institute and forwarded the matter to the State Government.

Submission of the learned counsel for the petitioners is that the Mistries serving in the Irrigation Research Institute, Roorkee and the Tubewell Mistries belong to the same cadre and the qualification prescribed and nature of work are also the same. Earlier the pay-scale were also the same, but now disparity in pay-scale is caused for the first time.

Counter affidavit has been filed by the respondents, but there is no plausible explanation for the disparity in pay-scales caused by the Govt. Order dated 25.05.2004. There is no whisper in the counter affidavit as to why this disparity in the pay-scale of Tubewell Mistries and Mistries working in the Irrigation Research Institute, Roorkee had been adopted by the respondents. The facts as stated in the writ petition have not been controverted by demonstrating any difference in qualifications or nature of work etc.

The Govt. order dated 25th May 2004 which relates to Tubewell Mistries does not speak that Tubewell Mistries already working shall be paid revised pay-scale only, in case, they have passed High School and ITI and have further completed 5 years' service.

In any case, representation of the petitioners has already been forwarded by the Head of the Department to the Government alongwith letter dated 10th December 2004, which is annexed as annexure no. 6 to the writ petition. Learned standing Counsel has also submitted that the matter is pending consideration before the State Govt.

In the circumstances, I deem it fit and proper to direct the respondent no. 1 to take decision on the recommendations made by Head of the Department on 10th December 2004 within the period prescribed by this Court.

Accordingly, I direct the respondent no. 1 to take decision on the recommendations of Chief Engineer Level –I (Head of the Department), Irrigation Department, Uttarakhand dated 10th December 2004 within a period of two months from the date of receipt of certified copy of this order.

With these directions, the writ petition is finally disposed of. No order as to costs.

(M.M. Ghildiyal, J.)

March 8, 2007:
NCM: